IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 5366 of 2006

DATED: 11-9-2006

Between:

S.A. Rahiman petitioner

And

The Vice Chairman & Managing Director,
APSRTC, Musheerabad, Hyderabad and others
Respondents

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 5366 of 2006

ORAL ORDER :

The petitioner is working as Driver with the respondents-APSRTC. While discharging his duties as driver, the second respondent herein directed him to attend periodical medical examination. Accordingly, the petitioner attended the periodical medical examination. The Medical Officer, APSRTC Dispensary – Hindupur, vide Medical Certificate dated 10.8.2005 declared the petitioner as medically unfit for the post of A-1 driver due to partial colour blindness. The petitioner submitted an appeal to the Medical Board and the Medical Board by letter dated 16.2.2006 declared petitioner medically unfit to the post of A-1 driver due to partial colour blindness. Thereafter, on 20.2.2006, the petitioner made a representation to the authorities to provide alternative employment as per Section 47 of the Persons with Disabilities (Equal opportunities, protection of rights and full participation) Act 1 of 1995 (for short 'the Act'). Since no action is taken on the said representation and the respondents are not permitting him to attend the duties, he filed the present writ petition.

Learned counsel for petitioner submitted that in terms of Section 47 of the Act, the respondents are under an obligation to provide alternative employment and placed reliance on judgment of this Court in N.Siva Kumar Vs. APSRTC, Musheerabad and others[1].

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-APSRTC.

This Court in N.Siva Kumar's case considered similar issue and directed the authorities to consider the case of the employee in the light of the provisions of the Act for alternative employment. The relevant portion reads as under;

> "Having regard to the fact that a right has been conferred upon the appellant herein under a statute, although the question raised herein has not been raised before the learned single Judge, we, in modification of the order passed by the learned single Judge, direct the appellant herein to file a representation, if not already filed, before the appropriate authority seeking the relief prayed for in this appeal, and on receipt of such a representation, the appropriate authority may consider the case of the appellant in the light of the aforementioned provisions and the decisions referred to hereinbefore, and pass an appropriate order at an early date, preferably within a period of four (4) weeks from the date of communication of this order."

In the present case, the representation dated 20.2.2006 made by the petitioner, seeking alternative employment as per Section 47 of the Persons with Disabilities (Equal opportunities, protection of rights and full participation) Act 1 of 1995 (for short 'the Act'), is said to be pending consideration before respondent No.2. Hence, I deem it appropriate to dispose of the writ petition directing respondent No.2 to consider the representation of the petitioner dated 20.2.2006 and pass appropriate speaking orders in accordance with law particularly in the light of Section 47 of the Act, as expeditiously as possible, preferably within a period of three months from the date of receipt of copy of this order.

With the above direction, the writ petition is disposed of. No costs.

N.V. RAMANA, J.

Date: 11.9.2006
tvk

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[1] 2001 (3) ALD 166 (DB)